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Unconditional Imprisonment

Výkon nepodmíněného trestu odnětí svobody – kriminologická analýza

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Summary

One of the most difficult research tasks in social sciences in the Czech Republic in recent decades has been the study of offenders as a specific group of citizens, assessing the efficacy of their imposed sentences, and in particular, exploring the effectiveness of current methods in the treatment of convicted offenders serving unconditional terms of imprisonment. Ministerial analyses (if available at all) provide little of the information needed to form a real picture of sanctions policy over the last twenty years in the Czech Republic, a comparison of the methods of unconditional imprisonment with at least neighbouring countries, or the real issues of the Czech prison system in a broader context.

Given this situation, a research task was set up as part of the preparation of the mid-term plan of research activities by the Institute of Criminology and Social Prevention for 2012-2015, titled: Analysis of Changes in the Structure, Trends and Characteristics of the Prison Population. The reason for the assignment of this task was the fact that from approximately the beginning of the new century, at least according to official statistics, the rate of crime in the Czech Republic has been slowly and steadily decreasing, yet despite this the number of convicted offenders and inmates continues to rise. **Since the 1990s, when, as a result of the infamous amnesty announced by the President of the Czech Republic, the prison population dwindled to a minimum (approx. 8,000 including accused), by the end of 2011, the number had significantly exceeded 20,000 inmates (23,000 including those in remand). In this situation, another presidential amnesty was announced at the end of 2012, effective from 1 January 2013. The general public was caught off-guard by this broad amnesty, as it repeatedly and vigorously rejected the option of amnesty in various opinion polls and equated its realisation with an increase in crime. On its part, the expert public was surprised by the fact the amnesty had not been accompanied by any systemic solutions to problems that arose in the course and as a result of the amnesty in**

1990, which led to a later increase in the number of convicted offenders to their original number.

Taking advantage of the interest shown by the superior authority, i.e. the Ministry of Justice, a proposal for a penology study was formulated, divided into two parts: 1) an Analysis of Changes in the Structure, Trends and Characteristics of the Prison Population, and 2) Dangers and Violence During Imprisonment and Custody.

The presented publication contains information found during the execution of the tasks in the first part of the study, i.e. **Analysis of Changes in the Structure, Trends and Characteristics of the Prison Population.**

The team of authors divided the individual parts of the monograph according to the expertise of individual members and in accordance with the stated objective. The following chapters were formulated as subtasks: sanctions policy in the Czech Republic after 1990; developments in legislation on the Czech prison system and issues on the treatment of convicted offenders in recent years; an analysis of the structure of the inner life of convicted offenders; a comparison of prison populations in selected states. This was supplemented by an examination of general information on the history of the prison system and the issue of the so-called “other life” of convicted offenders.

Certain adjustments over the authors’ original intent were made when processing the final research report in relation to the fact a new concept for the development of the Czech prison system up to 2025 was commissioned in the last two years of the research task.

Unconditional imprisonment – is a punishment that is still effective and its abolition is not planned. This was clearly shown by the conducted criminological analysis, however, it requires vital reform - to eliminate dysfunctional rules for its execution, to bring prisons into line with European standards by building new facilities for serving unconditional terms of imprisonment, to modernise security technology, and to improve and give prison staff greater powers. The Czech Republic is not alone in its pursuit of this reform, but it lags behind especially some of the Nordic European countries that have been progressively implementing reforms in this area. However, it is not true that Anglo-Saxon countries and the US must necessarily be our model in this endeavour. However, what we should adopt from most European countries is, above all, their critical attitude to unconditional imprisonment and efforts to ensure their transparency, greater control over the execution of sentences at

individual facilities (prisons) and a reduction in the directives of central management. At the same time, however, we should increase the personal responsibility of prison officials for their decisions - rewarding good, emulatable decisions and penalise bad decisions. Perhaps the concept of the prison system for future years (up to 2025), which arose from discussion by a wide platform of experts, will meet these expectations.

Currently, unconditional imprisonment has many problems, which not only remain unresolved, but of which the greater part of the expert public has no knowledge. We took the opportunity to familiarise at least our readers with some of these problems in this publication. Many of the differences found between prisons and presented in various ministerial materials, analyses and studies would be of another form if the authors had taken into account, in their interpretation, that many of the observed differences were given in advance by the specific type of prison and nature of prisoners placed there according to predetermined rules. The choice of the type of prison (according to so-called external differentiation) when sentencing convicted offenders is directly determined by court decision. Convicted offenders are then placed in the designated type of prison according to the court's decision by the General Directorate of the Prison Service, usually through one of its dispatchers. However, more information about its work is not available to the public (or inside the resort). When placing inmates in specific prisons, the dispatcher typically takes into account how disturbed the individual is, the convicted offender's family background, his/her professional qualifications, training needs and the needs of individual prisons for certain specialisations by inmates, etc.

A separate chapter on imprisonment at individual prisons is information on the so-called "other life" of convicted offenders (activities outside the supervision/attention of prison staff) that are generally hidden or derogated by the prison service. At many facilities no-one is even aware of its manifestations, because, in our opinion, the necessary intermediary in the form of a pro-socially cooperating self-government of inmates is lacking. The "other life" of inmates can then only be inferred from cases that end up at court and which receive wide media coverage, or from the testimonies of inmates following their release or that of their relatives and friends, or the testimony of redundant prison employees. The less reliable information we have about the conditions of imprisonment in Czech prisons, the more scope there is for various speculations and often bizarre ideas about prisons among the general public.

The problems we have presented build a strong case for the argument that punishment, namely **unconditional imprisonment does not have the expected effect on changing the behaviour and conduct of inmates to socially desirable forms, both during incarceration**

and after release from prison. Prison is more likely to create negative changes. In general, offenders do not overcome ingrained ways of behaviour, including aggressive behaviour in prisons, but simply learn to better hide them from supervising staff and to express their aggression indirectly - through submissive fellow inmates, creating group pseudo-social standards, etc. They learn to induce their forms of behaviour in fellow inmates by raising tensions in informal groups of inmates. In this way, they support the existence of the afore-described other life of inmates and obstruct the success of resocialisation processes, including those specifically aimed at eliminating violence in prisons.

The state's implemented sanctions policy has a major impact on imprisonment in Czech prisons (its standard, the number of inmates, etc.). Rated retrospectively, sanctions policy implemented in the Czech Republic after 1990, has been fundamentally influenced (in our opinion) by the following measures: depenalisation and decriminalisation in the first years after the Velvet Revolution, the extension of the range of alternative punishments, major amendment of the Code of Criminal Procedure and amendment of the Penal Act by Act No. 265/2001 Coll., the adoption of the Juvenile Justice Act (Act No. 218/2003 Coll.) and the adoption of the new Penal Code (Act No. 40/2009).

It was characteristic in the analysed period of 1990-2015 that measures often did not meet the expectations of legislators in terms of reducing the prison population. Another characteristic feature of this period was the absence of a functional criminal policy.

If the state wants to develop a coherent and functional criminal policy, it must ensure its link to other entities or authorities operating outside the Ministry of Justice. The bodies responsible for its implementation must realise that the impact of the criminal justice system and its measures on the recidivism of convicted offenders is very limited. Criminal policy must not be limited to the area of punishment (penalties), and focus more on discussion of appropriate measures in the field of social policy, even though the prerequisite or basis is naturally the motivation of convicted offenders to live in accordance with the law, their own activity and an interest in solving problems.

Only with this comprehensive approach can a functional criminal policy be achieved.

The issue of the prison system is broader than it appears at first glance. Methods of serving unconditional terms of imprisonment, and individual programmes for the treatment of inmates are defined and described in terms of methodology, but their fulfilment is often difficult. One

of the cornerstones of programmes for the treatment of inmates is their employment. This should be meaningful, and at the same time, bring convicted offenders serving time a financial reward, which could cover both statutorily defined payments, as well as the convicted offender's debts. If we add the need for job creation on prison grounds at a time of unemployment, the need to train workers for specific jobs, etc., there is nothing to envy this public sector. Employment is preceded by another important pillar, which is training convicted offenders, not only academically, but above all practically, which would then find its application in the future after being released from prison. Finally, all the positive experience gained in the practice of social services should be optimally utilised after the release of inmates, with the help of the state.

In view of the ever-growing prison population, which no country can afford in economic terms, tertiary prevention in prisons and after release from prison is both desirable and necessary. Although this issue is broad, and difficult in terms of implementation (especially for prison staff), it is still an illusory concept. Unceasing work with inmates is not known to the general public, and if some aspects come into wider awareness through newspaper articles, the internet or other means, it is very often perceived as inappropriate, or above standard.

Countries throughout Europe and around the world are trying to steer their criminal policy towards the same goal, that is, ideally, a secure state with minimum crime and a stable number of people in prison, and they choose different means to achieve that goal. Unfortunately, we cannot simply rely on tertiary prevention in prisons to solve everything in this case. Even if done responsibly, it will and does have its limits.

The introduction to the new concept of the Czech prison system begins with the words: "Prisons are an essential part of the state's criminal policy. The Czech Republic, as a democratic, constitutional state, proceeds on the basis of its international commitments, respect for human rights and freedoms, and its duty to protect society from perpetrators who violate the law. The purpose of unconditional imprisonment is not only to isolate convicted offenders, but especially an intense effort to reform the offender and his/her future reintegration into a society of people acting in accordance with the law".

The only thing missing is sufficient support (including financial) from other state institutions so that the Czech prison system can achieve these set goals.

The conducted criminological analysis set itself the goal of identifying and describing the causes of the current large number of inmates, the causes of changes in trends in the development of the prison population, but also to gain further knowledge on imprisonment under the conditions of Czech prisons. The authors of the analysis are confident they have achieved the objective of the analysis. The subtask that presented proposals for a reduction in the number of inmates in the future was also met. The authors hope that in the coming years the completed analysis will be a good basis for further measures to improve the quality of imprisonment, and that it will provide a sufficient information and knowledge base for further research, including a separate penology study.

Translated by: Presto